

REMARKS/ARGUMENTS

Status of the Claims

Claims 1-24 are currently pending in the application. Claim 22 has been amended for grammatical reasons. No claims have been added or cancelled. Therefore, claims 1-24 remain present for examination. Claims 1, 4, 10, 15, 21, and 23 are independent claims.

Prior to entry of this amendment, the application included claims 1-24. A non-final office action mailed February 8, 2008 rejected claims 1-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,257,246 issued to Brodie et al. (“Brodie”).

35 U.S.C. §103 Rejection, Brodie

Claims 1-24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,257,246 issued to Brodie. Applicants respectfully request reconsideration of the rejection because the Examiner has failed to show a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, *the prior art reference (or references when combined) must teach or suggest all the claim limitations.* MPEP §2142, Original Eighth Edition, August, 2001, Latest Revision August 2006 (*emphasis added*).

Brodie does not describe all the limitations of the claims.

Claim 1:

The Examiner admits that Brodie does not teach all of the limitations of the claims. “[Brodie fails] to teach that the check is a *payroll check* and that the *location information about an employer who has issued a payroll check is obtained and used for risk assessment.*” Office Action, pp. 2-3 (*emphasis in the original*). As such, the Examiner admits that Brodie does not satisfy the requirements for obviousness as stated above.

Brodie cannot substantiate a case of obviousness alone when there are missing elements. The Examiner has failed to provide any basis either by official notice, inherency, or

other reasoning to justify that the missing elements are somehow disclosed in Brodie. If the Examiner is attempting to state the claim term is present under Official Notice, the Applicants officially dispute this assertion. There is no proper official notice and there is no reasoning as to why the assertion is based upon common knowledge. Therefore, the Examiner has failed to show that one or more references contain all of the elements of the claims.

The Examiner goes on to state in the Office Action that “it would have been obvious to one of ordinary skill in the art to modify Brodie et al’s system to include this feature because doing so would allow for Brodie et al’s system to cash payroll checks by verifying that the issuer of the check (employer) is a local company.” *Office Action*, p. 3. The Examiner is only setting forth his motivation to combine references – not any element of the claims. As such, the Examiner fails to provide any reasoning why Brodie can stand alone to reject the claim. As shown below, at least two claim elements are missing from the disclosure of Brodie.

Missing Limitation: “request location information about an employer who has issued a payroll check”

The Examiner states that this claim element is shown in Brodie at column 2, lines 8-20. *Office Action*, p. 2 (“the computer processor configured to request *check data* presented in association with a check-cashing transaction . . .”). The Examiner improperly abstracts the claim terms. The claim element clearly states “request for location information.”

The pertinent section of Brodie states:

The check-cashing apparatus can have one or more input devices (e.g., keyboard, card reader, and check reader) for receiving check data and identification data (e.g., a driver's license number) from a user. In one embodiment, the check cashing apparatus included a check scanner for capturing an image of a check presented by the user. The image includes one or more data fields (e.g., legal amount, courtesy amount, payee, signature, endorsement, date and check type). The check-cashing apparatus can also have a card reader, which can be used to capture data from a membership card, identification card, and/or driver's license. The check-cashing apparatus can also include a device for capturing biometric information of the user (e.g., fingerprint, retinal scan, photo or a DNA analysis, etc.). *Brodie*, col. 2, lines 8-21.

Nowhere in the cited section does Brodie mention a request for location information of the employer. The Examiner attempts to equate “check data” with location information. However, nowhere in the entire disclosure of Brodie is there mention of the employer’s location being part of the check data. As such, this claim element is missing from the disclosure of Brodie. And, the Examiner has not stated any reasoning how the missing claim term is shown. As such, claim 1 is allowable over Brodie for at least this reason.

Missing Limitation: “obtain from the keypad the employer location information and to transmit the employer location information to a remote location”

The Examiner again states that this claim element is shown in Brodie at column 2, lines 8-20. *Office Action*, p. 2 (“the computer processor further configured to obtain *the check data* from the keypad . . .”). The Examiner once again improperly abstracts the claim terms. The claim element clearly states “obtain from the keypad the employer location information.”

Again, the pertinent section of Brodie states:

The check-cashing apparatus can have one or more input devices (e.g., keyboard, card reader, and check reader) for receiving check data and identification data (e.g., a driver’s license number) from a user. In one embodiment, the check cashing apparatus included a check scanner for capturing an image of a check presented by the user. The image includes one or more data fields (e.g., legal amount, courtesy amount, payee, signature, endorsement, date and check type). The check-cashing apparatus can also have a card reader, which can be used to capture data from a membership card, identification card, and/or driver’s license. The check-cashing apparatus can also include a device for capturing biometric information of the user (e.g., fingerprint, retinal scan, photo or a DNA analysis, etc.). *Brodie*, col. 2, lines 8-21.

Nowhere in the cited section does Brodie mention obtaining the employer’s location information from the keypad. As stated earlier, the Examiner attempts to equate “check data” with the employer’s location information. Brodie does not define “check data” as including the employer’s location. This claim element is also missing from the disclosure of Brodie. Again, the Examiner has not stated any reasoning how the missing claim term is shown in Brodie. As such, claim 1 is allowable over Brodie for at least this reason.

Claims 2-3:

Claims 2-3 depend from allowable independent claim 1. Thus, claims 2-3 are allowable over Brodie due at least to this dependence.

Claim 4:

Claim 4 includes similar limitations as claim 1. Thus, claim 4 is allowable over Brodie for the same or similar reasons as claim 1.

Claims 5-9:

Claims 5-9 depend from allowable independent claim 4. Thus, claims 5-9 are allowable over Brodie due at least to this dependence.

Claim 10:

Claim 10 includes similar limitations as claim 1. Thus, claim 10 is allowable over Brodie for the same or similar reasons as claim 1.

Claim 11-14:

Claims 11-14 depend from allowable independent claim 10. Thus, claims 11-14 are allowable over Brodie due at least to this dependence.

Claim 15:

Claim 15 includes similar limitations as claim 1. Thus, claim 15 is allowable over Brodie for the same or similar reasons as claim 1.

Claim 16-20:

Claims 16-20 depend from allowable independent claim 15. Thus, claims 16-20 are allowable over Brodie due at least to this dependence.

Claim 21:

Claim 21 includes similar limitations as claim 1. Thus, claim 21 is allowable over Brodie for the same or similar reasons as claim 1.

Claim 22:

Claim 22 depends from allowable independent claim 21. Thus, claim 22 is allowable over Brodie due at least to this dependence.

Claim 23:

Claim 23 includes similar limitations as claim 1. Thus, claim 23 is allowable over Brodie for the same or similar reasons as claim 1.

Claim 24:

Claim 24 depends from allowable independent claim 23. Thus, claim 24 is allowable over Brodie due at least to this dependence.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Applicants do not acquiesce to any argument not specifically addressed in the response. Rather, Applicants believe the enclosed argument overcome all rejections presented.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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